



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2001-10486]

Standards for Living Organisms in Ships' Ballast Water
Discharged in U.S. Waters: Final Programmatic Environmental
Impact Statement

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability.

SUMMARY: The U.S. Coast Guard announces the availability of a final programmatic environmental impact statement (FPEIS) for the rulemaking entitled "Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters" (Docket No. USCG-2001-10486). This FPEIS provides an assessment of the potential environmental impacts associated with the establishment of a ballast water discharge standard for the allowable concentration of living organisms in ships' ballast water discharged in waters of the United States. The standard will be used to approve ballast water management methods that are effective in preventing or reducing the introduction of nonindigenous species via discharged ballast water into waters of the United States.

DATES: Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG-2001-10486 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: (202) 493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail Mr. Greg Kirkbride, U.S. Coast Guard; telephone (202) 372-1479, e-mail: Gregory.B.Kirkbride@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Submitting comments: If you submit a comment, please include the docket number for this notice (USCG-2001-10486) and provide a reason for each suggestion or recommendation. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and click on the "submit a comment" box, which will then become highlighted in blue. Insert "USCG-2001-10486" in the Keyword box, click

"Search", and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing the comments and FPEIS: To view the comments and the FPEIS, go to <http://www.regulations.gov>, enter the docket number for this rulemaking (USCG-2001-10486) in the Keyword box, and click "Search". If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act: Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act

system of records notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

Basis and Purpose

Under the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA) as reauthorized and amended in the National Invasive Species Act of 1996 (NISA), the United States Coast Guard (USCG) is the lead federal agency for implementing regulations to reduce or prevent the introduction of nonindigenous species (NIS) via shipping activities in waters of the United States.

In order to give effect to this statutory directive, on September 26, 2003, the USCG published a Notice of Intent with Request for Comments to seek public and agency input to develop the scope of this FPEIS on its proposed action to establish a ballast water discharge standard (BWDS) that would be effective in preventing the introduction and spread of NIS via discharged ballast water (68 FR 55559).

On July 28, 2004 the USCG published a final rule on a mandatory ballast water management (BWM) program for all waters of the United States, which was authorized under NISA (69 FR 44952). This program is currently in effect and requires vessels that enter U.S. waters after operating

outside the U.S. Exclusive Economic Zone (EEZ) to use one of the following BWM practices: conduct mid-ocean Ballast Water Exchange (BWE) 200 nautical miles from any shore, retain ballast water onboard, or use a USCG-approved alternative method. At the time the final rule was published, BWE and retention of ballast water were the only available ballast water management methods. On August 28, 2009, the Coast Guard published a notice of proposed rulemaking (NPRM) titled "Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters" in the Federal Register (74 FR 44632) which proposed to establish a BWDS.

The purpose of the proposed action in the FPEIS is for the USCG to establish, via a rulemaking, a BWDS that is practicable, enforceable, and which would be used to approve ballast water management methods, including development and approval of shipboard BWM systems. The need for the action is to prevent or reduce the introduction of NIS via discharged ballast water from vessels entering waters of the United States after operating outside the U.S. EEZ, and from vessels operating within the U.S. EEZ.

The FPEIS evaluates the impacts to the environment from a range of alternative ballast water discharge

standards. The BWDS will be used to approve ballast water management methods that are effective in preventing or reducing the introduction of NIS via discharged ballast water. The USCG believes that to prevent or reduce the introduction of NIS, the preferred alternative must be biologically protective, scientifically sound, practicable in implementation, and enforceable.

Ballast water is taken on by a vessel to increase the water draft, change the trim, regulate the stability, or maintain stress loads within acceptable operational limits. The term NIS refers to organisms found outside of their native or historical range. In cases where they invade ecosystems, NIS may alter aquatic and marine ecosystems and biodiversity, impact commercial and recreational fisheries, cause infrastructure damage, contribute to potential risks to human health, and create economic impacts. Ballast water discharge is a major pathway for NIS introduction from vessels operating in or entering waters of the United States.

The FPEIS identifies and assesses reasonable alternatives for the proposed action, including the No Action Alternative, addresses the likely consequences of a BWDS on the human and natural environment, and presents potential mitigation measures to avoid or minimize adverse

effects upon the quality of the human and natural environment. In the FPEIS, the USCG analyzed five alternatives for a BWDS. These alternatives are summarized as follows:

Alternative 1—No Action Alternative: Under the No Action Alternative, the USCG would not establish a BWDS, but would continue the existing BWM program. As currently in force, the BWM program, established in 2004, directs ships to conduct mid-ocean BWE, retain ballast water onboard, or use an environmentally sound ballast water management method approved by the USCG.

Alternatives 2-4—Ballast Water Discharge Concentrations: These alternatives differ from each other in the concentration and size classes of organisms that would be permitted and the standard is progressively more stringent from Alternative 2 to Alternative 4. Alternative 2 provides for a protective standard of less than 10 organisms per cubic meter for organisms larger than 50 microns in minimum dimension; and less than 10 organisms per milliliter for organisms between 10 and 50 microns in minimum dimension. Alternative 3 provides for a protective standard of less than 1 organism per cubic meter for organisms larger than 50 microns in minimum dimension; and less than 1 organism per milliliter for organisms between

10 and 50 microns in minimum dimension. Alternative 4 provides for a protective standard of less than 0.1 organisms per cubic meter for organisms larger than 50 microns in minimum dimension; and less than 0.1 organisms per milliliter for organisms between 10 and 50 microns in minimum dimension.

Alternative 5—Sterilization: Alternative 5 would require the removal or inactivation of all living membrane-bound organisms (including bacteria and some viruses) larger than 0.1 microns.

Alternative 2 has been selected as the USCG's preferred alternative.

The USCG will file the FPEIS with the U.S. Environmental Protection Agency (EPA), as required. The EPA will then publish an NOA in the Federal Register, which reports all environmental impact statements filed with the EPA during the preceding week. The publication of the EPA NOA initiates a 30-day public review period. The timing of publication of this NOA in the Federal Register will be coordinated with the EPA NOA. By reason of this being a rulemaking action under the Administrative Procedure Act,

the Final Rule constitutes the Record of Decision and it is being published this same date, consistent with 40 CFR 1506.10(b).

Dated: March 9, 2012

J. G. LANTZ
Director of Commercial Regulations and Standards,
U.S. Coast Guard

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